
ESEA Flexibility

Frequently Asked Questions Addendum

March 5, 2013

PURPOSE OF THIS ADDENDUM

This document revises the August 3, 2012 *ESEA Flexibility Frequently Asked Questions* document (available at: <http://www2.ed.gov/policy/eseaflex/esea-flexibility-faqs.doc>) by modifying B-11 and by adding: B-11b, B-11c, B-23a, B-26, C-18b, C-20a, C-34b, C-34c, C-34d, C-35a, C-39a, C-41a, C-41b, C-41c, C-43a, C-43b, C-43c, C-43d, and C-48b. The Department will incorporate these new questions into the complete guidance document and post that revised guidance document on the ESEA flexibility Web page in the coming weeks. In addition, please note that B-23a, C-35a, C-39a, C-43a, C-43b, C-43c, and C-43d will also be published as an addendum to the Department's Non-Regulatory Guidance for the School Improvement Grants (SIG) program.

B-11. Does an SEA have flexibility with respect to whether it and its LEAs will make AYP determinations under ESEA flexibility?

Yes. An SEA that receives ESEA flexibility may continue to make AYP determinations for its LEAs, and its LEAs may continue to make AYP determinations for their schools, based on the SEA's new AMOs, and include these determinations on State and local report cards. An SEA may choose to continue making AYP determinations particularly if determining AYP is an integral part of the SEA's accountability and support system (*e.g.*, if the State has a "parent trigger" law that is linked to AYP determinations). However, the Department recognizes that making a single AYP determination for LEAs and schools might not be consistent with the new system of differentiated recognition, accountability, and support proposed by an SEA as part of its request for ESEA flexibility. The Department also believes that, because ESEA flexibility requires an SEA to report performance against AMOs for the "all students" group and all ESEA subgroups and to use performance against AMOs in determining incentives, interventions and supports to ensure continuous improvement in Title I schools that are not reward, priority, or focus schools, determining and reporting AYP might no longer be essential for meaningful accountability under such a system.

For these reasons, an SEA may request an additional waiver so that it and its LEAs will no longer be required to make AYP determinations. However, an SEA and its LEAs must still report on their report cards, for the "all students" group and for all subgroups identified in ESEA section 1111(b)(2)(C)(v) in each LEA and school, respectively, the elements of AYP, including achievement at each proficiency level, performance against the AMOs (*e.g.*, "met" or "not met" and a comparison of the percent proficient to the AMO), participation rate, and graduation rate for high schools or the other academic indicator for elementary and middle schools. In addition, in a State that includes one or more "combined subgroups" as part of its differentiated recognition, accountability, and support system under ESEA flexibility, the SEA and all LEAs must report achievement at each proficiency level, participation rate, and the graduation rate for each of those subgroups, as well as performance against the AMOs for each of those subgroups if the SEA has established AMOs for its combined subgroups. The SEA and its LEAs would also continue to comply with all other reporting requirements in ESEA section 1111(h)(1)(C) and 1111(h)(2)(B), including, for example, reporting information on achievement at each proficiency level disaggregated by gender and migrant status.

An SEA that requests this optional waiver would not need to make an AYP determination for its LEAs, and its LEAs would not need to make an AYP determination for their schools. In addition, any element of ESEA flexibility, as well as any unwaived program requirement, that is linked to a

school's or an LEA's making AYP would instead be linked to the school's or the LEA's meeting the State's AMOs, the 95 percent participation rate requirement, and the graduation rate goal or target for a high school or the other academic indicator for an elementary or middle school. Similarly, any element of ESEA flexibility or any unwaived program requirement that is linked to a particular subgroup's making AYP would instead be linked to the subgroup's meeting the State's AMOs, the 95 percent participation rate requirement, and, if the subgroup is part of a high school, the graduation rate goal or target. For example, the definition of "reward schools" provides that "a highest-performing school must be making AYP for the 'all students' group and all of its subgroups." For an SEA that requests this additional waiver, a highest-performing school must be meeting the State's AMOs, the 95 percent participation rate requirement, and the graduation rate goal or target for a high school or the other academic indicator for an elementary or middle school for the "all students" group, as well as the State's AMOs, the 95 percent participation rate requirement, and, for a high school, the graduation rate goal or target, for all subgroups.

An SEA that receives this optional waiver would need to modify how it implements certain existing provisions that apply to how AYP determinations are made. In general, the provisions that apply to AYP determinations would instead apply to the reporting of performance against the AMOs, participation rate, graduation rate, and the other academic indicator. The table below provides additional detail for how this would work with respect to particular provisions related to making AYP determinations.

<u>Provisions related to AYP</u>	<u>Application in a State that Receives Optional Waiver</u>
<u>Participation rate</u> — For a school to make AYP, not less than 95 percent of each subgroup of students who are enrolled in the school are required to take the assessments (ESEA section 1111(b)(2)(I)(ii))	SEA and LEAs would continue to report participation rate separately for each subgroup (like they do under current law), and a subgroup would not be able to make its AMOs unless it has at least a 95 percent participation rate
<u>Graduation rate</u> — For a school to make AYP, each subgroup of students must make the State's graduation rate goal or target, based on an adjusted cohort graduation rate (34 C.F.R. § 200.19(b)(5)(i))	SEA and LEAs would continue to report graduation rate separately for each subgroup (like they do under current law), and adjusted cohort graduation rate would be used in making accountability determinations
<u>Other academic indicator for elementary and middle school</u> — For a school to make AYP, the all students group must make the other academic indicator (34 C.F.R. § 200.19(a)(4)(ii))	SEA and LEAs would continue to report the other academic indicator separately for each subgroup (like they do under current law)
<u>Safe harbor</u> — A school may be considered to have made AYP if the percent of students not proficient decreases by 10 percent from the prior year (ESEA section 1111(b)(2)(I)(i))	Would no longer apply because safe harbor is a concept intrinsically linked to making AYP determinations (although an SEA might keep some concept of safe harbor in AMOs established under Option C)

<u>Provisions related to AYP</u>	<u>Application in a State that Receives Optional Waiver</u>
<p><u>“One/two percent rules”</u> — In determining AYP, a State may count the proficient and advanced scores of students with disabilities who take an alternate assessment based on alternate academic achievement standards, up to a cap at the LEA and State levels of one percent of all students assessed (34 C.F.R. § 200.13(c)(2)(i)). As applicable, a State may count the proficient and advanced scores of students with disabilities who take an alternate assessment based on modified academic achievement standards, up to a cap at the LEA and State levels of two percent of all students assessed (34 C.F.R. § 200.13(c)(2)(ii), (3))</p>	<p>Caps would apply to making accountability determinations (see B-11a) (but, like under current law, not to reporting achievement at each proficiency level)</p>
<p><u>Full academic year</u> — In making AYP determinations for a school or LEA, an LEA or SEA, respectively, is required to include only students who were enrolled in the school or LEA for a full academic year (34 C.F.R. § 200.20(e))</p>	<p>Would apply to reporting performance against the AMOs (all students, regardless of length of enrollment, would be included in all other reporting)</p>
<p><u>Counting recently arrived English Learners as participants</u> — In determining AYP for a school or LEA, an SEA may count as a participant a recently arrived English Learner who took: (1) either the State’s reading/language arts assessment or the English language proficiency assessment; and (2) the mathematics assessment (34 C.F.R. § 200.20(f)(1)(i))</p>	<p>Would apply to reporting participation rates</p>
<p><u>Including scores of recently arrived English Learners</u> — In determining AYP for a school or LEA, an SEA may choose not to include the scores of recently arrived English Learners on the mathematics or reading/language arts assessment (34 C.F.R. § 200.20(f)(1)(ii))</p>	<p>Would apply to reporting performance against the AMOs</p>
<p><u>Including former English Learners and students with disabilities in those subgroups</u> — In determining AYP for English Learners and students with disabilities, an SEA may include, for up to two years, the scores of former English Learners and students with disabilities (34 C.F.R. § 200.20(f)(2))</p>	<p>34 C.F.R. § 200.20(f)(2)(iii) would continue to apply; this provision permits the scores of former English Learners and students with disabilities to be included with the scores of current English Learners and students with disabilities for purposes of reporting performance against the AMOs, but not for any other reporting purpose</p>
<p><u>Growth models</u> — An SEA may request to include a measure of student growth in its definition of AYP</p>	<p>Would apply to reporting performance against the AMOs</p>

<u>Provisions related to AYP</u>	<u>Application in a State that Receives Optional Waiver</u>
<u>Title III, AMAO 3</u> — Each SEA must set annual measurable achievement objectives (AMAOs) for English Learners served under Title III; AMAO 3 is based on making AYP for English Learners (ESEA 3122)	Would determine AMAO 3 based on whether the subgroup of English Learners met the AMOs, the 95 percent participation rate requirement, and, for an LEA that includes one or more high schools, the other academic indicator (<i>i.e.</i> , graduation rate)

Although the ESEA does not impose a particular deadline for publishing SEA and LEA report cards, the Department encourages all SEAs and LEAs, but particularly those that receive this optional waiver, to publish their report cards as early as possible in order to ensure that parents and other stakeholders have access to the information in the report cards in a timely manner.

B-11b. How must an SEA that received a waiver of the requirement to make AYP determinations hold its LEAs accountable for meeting AMAO 3 under ESEA section 3122?

Under ESEA section 3122, each SEA must set AMAOs for English Learners served under Title III of the ESEA. AMAO 3 is based on making AYP for the subgroup of English Learners. In a State that received a waiver of the requirement to make AYP determinations, an LEA is still held accountable for AMAO 3. However, that accountability is now based on whether the subgroup of English Learners met its AMOs for reading/language arts and mathematics, the 95 percent participation rate requirement, and, if the LEA includes one or more high schools, the State's graduation rate goal or annual target. Because a subgroup must meet all of these elements in order to make AYP, meeting AMAO 3 in a State that has received the AYP waiver likewise requires meeting all of these individual AYP components.

B-11c. Do the provisions that ordinarily apply to AYP determinations apply to an SEA's accountability determinations under ESEA flexibility?

Yes. In making AYP determinations under the ESEA, an SEA or LEA applies a number of provisions, such as the requirement to count all students who attended a school or district for a full academic year in the determinations for the school or district, respectively, and the option to count the proficient and advanced scores of students with the most significant cognitive disabilities who take an alternate assessment based on alternate academic achievement standards, up to a cap of one percent of all students at the LEA or State level. Question B-11 explains that, in a State that receives the waiver of the requirement to make AYP determinations, the provisions that apply to AYP determinations generally apply to the reporting of performance against the AMOs, participation rate, graduation rate, and the other academic indicator. In addition, the provisions that apply to AYP (see table in B-11) also apply to an SEA's accountability determinations under its system of differentiated recognition, accountability, and support under ESEA flexibility.

For example, under ESEA flexibility, a number of SEAs have received the waiver of the requirement to make AYP determinations but are, instead, assigning every school in the State a

grade based on an A-F grading system. These grades might be based on a number of factors, such as student achievement, student growth, and graduation rates. In determining a school's grade, the SEA must apply the provisions that ordinarily apply to AYP determinations. For example, in calculating the achievement measure of the school's grade, an SEA may count the proficient and advanced scores of students with disabilities who take an alternate assessment based on alternate academic achievement standards, but if the SEA or LEA in which the school is located, exceeds the one percent cap (see 34 C.F.R. § 200.13(c)(2)(i)), the SEA must count the scores above the cap as non-proficient and distribute those non-proficient scores among schools in the State or LEA, respectively (see 34 C.F.R. § 200.13(c)(7)).

B-23a. May an SEA award SIG funds to an LEA for use in focus schools that are not otherwise eligible for SIG funds as Tier I, Tier II, or Tier III schools?

No, unless an SEA is granted an additional waiver to do so. In the absence of such an additional waiver, an SEA that has received ESEA flexibility may award SIG funds to an LEA only for SIG-eligible Tier I, Tier II, or Tier III schools or for priority schools.

Under ESEA flexibility, priority schools, like Tier I and Tier II SIG schools, are generally the schools in a State with the overall lowest achievement. Thus, a waiver that permits these schools to receive SIG funds is consistent with the goal of the SIG program of turning around the Nation's lowest-achieving schools. Focus schools, on the other hand, are not necessarily schools with overall low achievement comparable to that of priority schools. Rather, they are schools with significant achievement gaps or low performance of one or more particular subgroups. Accordingly, in many States, implementing the comprehensive schoolwide reforms required by the SIG intervention models might not be appropriate for these schools. However, if an SEA is able to demonstrate that implementing those comprehensive reforms in its focus schools is consistent with both the goal of the SIG program and the SEA's approved system of differentiated recognition, accountability, and support, the Department will consider the SEA's request for an additional waiver to permit it to award SIG funds to an LEA for use in focus schools that are not otherwise eligible for the funds.

In addition, note that a Tier I, Tier II, or priority school may receive SIG funds only to implement one of the four SIG intervention models.

B-26. If an SEA identifies as a priority school a Title I-eligible high school that has had a graduation rate below 60 percent over a number of years, may an LEA take advantage of the waiver of the eligibility and allocation requirements in ESEA section 1113 to serve that school with Title I funds out of rank order before the school begins implementing interventions aligned with all of the turnaround principles?

No. A Title I-eligible high school that has been identified as a priority school based on its graduation rate must be fully implementing interventions aligned with all of the turnaround principles to receive the benefit of the waiver of ESEA section 1113. In other words, it is only by implementing interventions aligned with the turnaround principles that a Title I-*eligible* high school may receive Title I funds and thus become a Title I-*participating* school. For example, a Title I-eligible school that is planning interventions in the 2012–2013 school year that it will fully implement in the 2013–2014 school year may not be served out of rank order prior to the 2013–2014 implementation year.

C-18b. Does an SEA with an approved ESEA flexibility request have any discretion as to how it includes certain schools (e.g., alternative schools, small schools, new schools, and schools with no tested grades (i.e., K-2 schools)) in its accountability system?

Yes, in certain circumstances. All students in a State, regardless of the school they attend, must be taught to the same academic standards, and all schools must be included in a State’s system of differentiated recognition, accountability, and support. Ideally, an SEA will hold all schools accountable for the same measures and include them in the State’s system in the same way. However, in certain circumstances, an SEA may need to modify how it includes certain schools in its system. For example, an SEA that uses an index to determine an A-F grade for each of its schools might give small schools or schools with no tested grades a letter grade based on criteria that are different from those that determine the grades for other schools because small schools and schools with no tested grades generally do not have assessment data that can be used to generate grades in the same way as other schools. Similarly, an SEA that includes in its index a measure of progress over a number of years might exclude that factor in determining the grade of a new school. If an SEA takes advantage of this flexibility with respect to schools in these special categories, it must have clear criteria and a consistent process for annually evaluating these schools and for ensuring that interventions, incentives, and supports are provided where needed. An SEA must describe the criteria and process for holding these schools accountable in its Accountability Addendum.

Moreover, the Department expects that each SEA will review data from its accountability determinations and modify how it includes these schools in its system, as necessary, based on that review in order to ensure that, to the greatest extent possible, the SEA’s accountability determinations are consistent across all categories of schools. The Department will also carefully review data regarding how these schools are included in accountability systems under ESEA flexibility and may ask for additional information regarding the inclusion of these schools when an SEA requests renewal of its approved request.

C-20a. Must an SEA or LEA report whether all subgroups listed in ESEA section 1111(b)(2)(C)(v)(II) meet the State’s graduation rate goal or targets?

Yes. Under ESEA section 1111(h)(1)(C)(vi) and (h)(2)(B), an SEA and an LEA must report a “four-year adjusted cohort graduation rate,” as that term is defined in 34 C.F.R. § 200.19(b)(1)(i)(A), for

the “all students” group and must disaggregate the data by the subgroups listed in ESEA section 1111(b)(2)(C)(v)(II) — that is, major racial and ethnic groups, students with disabilities, English Learners, and students who are economically disadvantaged — unless the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student. In addition, in a State that includes one or more “combined subgroups” as part of its differentiated recognition, accountability, and support system under ESEA flexibility, the SEA and all LEAs must report the graduation rate for each of those subgroups. The SEA and LEAs must also report whether the SEA’s graduation rate goal or annual targets were met or not met for the “all students” group and each subgroup, including each combined subgroup included in a State’s differentiated recognition, accountability, and support system. The SEA or LEA may also report an extended-year rate or rates as permitted under 34 C.F.R. §§ 200.19(b)(1)(v) and (b)(4)(ii)(B).

C-34b. What activities related to reviewing the performance of and potentially replacing the principal in a priority school must be completed within a particular school year for the priority school to be considered fully implementing interventions aligned with the turnaround principles in that year?

To be considered the first full year of implementation, a priority school must have *already* reviewed the performance and qualifications of the principal, made a determination regarding whether to keep or replace the principal, and either demonstrated to the SEA that the current principal has a track record of improving achievement and has the ability to lead the turnaround effort or replaced the principal, as appropriate. In other words, in order to be considered the first full year of implementation, the principal leading the school beginning at the start of the year must be the one who has already been determined to be the appropriate principal to lead the turnaround effort.

The Department recognizes that not all Window 1 and Window 2 States (*i.e.*, States whose SEAs requested and received ESEA flexibility in time to begin implementation at the start of the 2012–2013 school year), or LEAs within those States, were previously aware of what it means to be fully implementing this particular intervention. Accordingly, the Department is creating a narrow exception to this general rule for Window 1 or Window 2 States with plans that call for full implementation of interventions aligned with the turnaround principles beginning in the 2012–2013 school year. An LEA with a priority school that did not review its principal and either make a demonstration to the SEA that the current principal has a track record of improving achievement and has the ability to lead the turnaround effort or replace the principal before the 2012–2013 school year can still be considered to be fully implementing interventions aligned with the turnaround principles this year if it meets certain minimum requirements. Specifically, during the 2012–2013 school year, the LEA must review the performance and qualifications of the current principal and make a determination regarding whether it will keep the principal. If keeping the principal, the LEA must demonstrate to the SEA, during the 2012–2013 school year, that the current principal has a track record of improving achievement and has the ability to lead the turnaround effort. If replacing the principal, the LEA must make that determination in time for a new principal to be in place by the start of the 2013–2014 school year. If the LEA cannot replace its principal on this timeline, whether because of contractual issues, State or local laws regarding due process, or lack of availability of a new principal, then it cannot be considered to have begun full implementation in the 2012–2013 school year. Note, however, that ESEA flexibility does not

require the implementation of interventions aligned with the turnaround principles in all priority schools beginning in the 2012–2013 school year. SEAs and LEAs have until the 2014–2015 school year to begin full implementation of the required interventions in all priority schools precisely in order to accommodate challenging implementation issues such as replacing a principal.

For priority schools in Window 1 and Window 2 States that intend to begin full implementation in the 2013–2014 or 2014–2015 school year and for all priority schools in Window 3 States (*i.e.*, States whose SEAs requested ESEA flexibility in September 2012 with the intent of beginning implementation at the start of the 2013–2014 school year), the general rule above applies. That is, for those schools to be considered fully implementing interventions aligned with the turnaround principles, the school must have in place at the beginning of the school year either a new principal or a principal whose performance has already been reviewed and who has already been determined to have the qualifications and abilities necessary to lead the turnaround effort.

C-34c. If an LEA with a priority school determines, based on its review of the current principal in the priority school, that it will keep the principal, must it notify the SEA of that decision?

Yes. Under the definition of “turnaround principles” in the document titled *ESEA Flexibility*, an LEA that has reviewed the performance of the current principal in a priority school and determined that it would like to retain that principal to lead the turnaround effort must “demonstrate to the SEA that the current principal has a track record in improving achievement and has the ability to lead the turnaround effort” (emphasis added). Accordingly, not only must the LEA notify the SEA of its decision and provide evidence supporting that decision, but the SEA must have a clear process in place for reviewing the LEA’s decision and determining whether the LEA has made a sufficient demonstration regarding the principal’s track record and ability to lead a turnaround effort. Ultimately, an SEA is responsible for ensuring that an LEA has either made this demonstration or replaced the principal for each priority school that is implementing interventions aligned with the turnaround principles.

C-34d. Is the review of the performance of the current principal in a priority school that is required under Principle 2 the same as the principal evaluation that is required under Principle 3?

No. The principal review that is required to meet the turnaround principle regarding providing strong leadership in a priority school is fairly narrow and is conducted for the specific purpose of determining whether the principal has the ability to lead the turnaround effort. The evaluation of a principal to be conducted using a system developed in accordance with Principle 3, however, is broader and must be used to identify needs and guide professional development as well as to determine the principal’s performance level. Moreover, the evaluation system created under Principle 3 must apply to all principals, not only those in priority schools.

Particularly given these differences, an LEA should not wait to conduct its review of a priority school principal until it fully implements a principal evaluation system in accordance with Principle 3. Rather, an LEA with one or more priority schools should proceed with conducting those reviews

using currently available tools in order to fully implement interventions aligned with the turnaround principles in accordance with its SEA's Principle 2 timeline.

Further, even an LEA that is already fully implementing a principal evaluation system in accordance with Principle 3 might not want to use that system to satisfy the review component of the turnaround principles. Doing so might not be appropriate to answer the specific question regarding the principal's ability to lead the turnaround effort if, for example, the principal was found to be highly effective but received that rating as a principal at a high-performing school. However, to the extent an evaluation system is designed to determine whether a particular principal is capable of leading a turnaround effort, an LEA is permitted to use the results of that system to meet the review component of the turnaround principles.

**EXTENDED
TIME**



C-35a. What is the difference between redesigning the school day, week, or year to include additional time for student learning and teacher collaboration as required by the turnaround principles and providing increased learning time as required by the transformation and turnaround models under SIG?

Redesigning the school day, week, or year does not necessarily require adding time to increase the total number of school hours. Rather, an LEA might, for example, move to block scheduling to reduce transition time between classes and thus increase instructional time (see C-35). Providing increased learning time under SIG, however, requires actually adding time to the school day, week, or year to significantly increase the total number of school hours, although extending learning into before- or after-school hours is permissible under this definition so long as the before- or after-school instructional program is available to all students in the school (see A-32 in the SIG guidance). An LEA that receives SIG funds to implement a transformation or turnaround model in one or more priority schools must continue to meet the requirement regarding providing increased learning time and may not simply redesign its school day to increase instructional time.

**PRINCIPAL
REPLACEMENT**



C-39a. In connection with the replacement of a principal, what is the difference between implementing interventions aligned with the turnaround principles under ESEA flexibility and implementing the turnaround or transformation model under SIG?

An LEA that receives SIG funds to implement a turnaround or transformation model in a school must replace the principal in that school (see Sections I.A.2(a)(1)(i) and I.A.2(d)(1)(i)(A) of the SIG Final Requirements, 75 Fed. Reg. 66363 (Oct. 28, 2010)). An LEA that implements interventions aligned to the turnaround principles, however, need not replace the principal in a priority school if it can demonstrate to its SEA that it has reviewed the performance and qualifications of the current principal and, based on that review, determined that the principal has a track record of improving achievement and has the ability to lead the turnaround effort.

C-41a. In order to be considered “implementing meaningful interventions aligned with the turnaround principles,” must a priority

school be implementing interventions aligned with *all* of the turnaround principles concurrently?

Yes. A priority school must implement interventions aligned with *all* of the turnaround principles, concurrently, in order to be considered to be fully implementing such interventions for the required three years under ESEA flexibility. This requirement reflects the fact that the interventions in priority schools are intended to effect dramatic, systemic, whole-school change in those schools. In other words, it is not until a priority school is fully implementing interventions aligned with all of the turnaround principles that it can be considered to be implementing interventions as required by ESEA flexibility.

Note that ESEA flexibility contemplated that not all LEAs with priority schools would be prepared to implement interventions aligned with all of the turnaround principles beginning the first year following the approval of their SEA's ESEA flexibility request. ESEA flexibility addresses this issue by giving an SEA until school year 2014–2015 to begin full implementation of interventions in all of its priority schools.

C-41b. May a priority school “roll in” interventions aligned with the turnaround principles over a period of two or three years?

Yes, but consistent with C-41a, the school will not be considered to be fully implementing interventions aligned with all of the turnaround principles until it has “rolled in” all interventions.

Through monitoring, the Department has learned that a number of SEAs permit LEAs with one or more priority schools to “roll in” their implementation of interventions aligned with the turnaround principles. For example, an LEA might implement interventions aligned with only a few of the turnaround principles the first year a school is identified as a priority school, then add a few more interventions the following year, and still more interventions in the third year, so that in the third year, the LEA is finally implementing interventions aligned with all of the turnaround principles.

Although an SEA may allow or even encourage its LEAs to “roll in” priority school interventions in this manner, it may count, for the purpose of satisfying the requirement that such interventions are implemented for three full years, only the years in which all interventions are in place. Thus, in the example above, the third year of implementing interventions would actually be the priority school's first year of full implementation. As explained in C-41a, this reflects the fact that the interventions in priority schools are intended to effect dramatic, systemic, whole-school change in those schools, which, in the example above, does not occur until the third year of implementing interventions. The school would be required to continue full implementation of all interventions for two additional school years to receive credit for completing the priority school intervention requirements of ESEA flexibility.

C-41c. May an LEA that will begin full implementation in one or more priority schools in the 2013–2014 or 2014–2015 school year conduct planning or pre-implementation activities prior to beginning full implementation?

Yes. The Department encourages an LEA that will begin full implementation in one or more priority schools in the 2013–2014 or 2014–2015 school year to use the time between now and then to conduct planning and pre-implementation activities to ensure it has in place everything necessary to begin full implementation at the very beginning of the relevant school year. For example, the LEA or priority school might hold community meetings to review school performance and discuss the interventions to be implemented; review the qualifications and performance of the current principal and teachers; recruit and hire a new principal and new teachers, as necessary; identify and purchase new instructional materials; make decisions about redesigning the school day, week, or year; or develop a new data system.

Note that, even before they begin fully implementing interventions aligned with the turnaround principles, most priority schools are subject to the requirements in ESEA section 1114 regarding schoolwide programs, including the requirements to conduct a comprehensive needs assessment of the school and to implement schoolwide reform strategies based on that assessment. Complying with these requirements should help a priority school to be better prepared to fully implement interventions aligned with the turnaround principles when it is required to do so.

C-43a. May an SEA consider a school that received a SIG grant but had that grant terminated for failure to implement a model with fidelity to be a priority school that has completed three years of implementing interventions aligned with the turnaround principles?

No. A number of SEAs have used their authority to terminate a SIG grant for a school that was not implementing an intervention model with fidelity. In some instances, a school that has had its SIG grant terminated may have been identified as a priority school, either because it was still implementing a SIG model at the time it was identified or because it fell into one of the other two categories of priority schools (*i.e.*, a school among the lowest-achieving five percent of all Title I schools or a school with a graduation rate below 60 percent). Such a school cannot be said to have completed three years of implementing interventions aligned with the turnaround principles because it never completed three years of implementing a SIG intervention model. Moreover, given that the school's grant was terminated for failure to implement a model, the one or two years over which the school purported to implement its SIG grant cannot count toward its three years of implementing interventions aligned with the turnaround principles. Rather, the school must begin again, implementing a set of cohesive and comprehensive interventions aligned to all of the turnaround principles over a full three years.

C-43b. May an LEA with a SIG school that is in its third year of implementing a SIG intervention model in the 2012–2013 school year but has not yet satisfied its State's criteria for exiting priority status apply for another three-year SIG grant for that school?

No. Section II.B.10 of the SIG final requirements provides that, “[i]n identifying Tier I and Tier II schools in a State for purposes of allocating [SIG funds] for any year subsequent to FY 2009, an SEA must exclude from consideration any school that was previously identified as a Tier I or Tier II school and in which an LEA is implementing one of the four [SIG intervention models] using [SIG]

funds.” In accordance with this requirement, which has not been waived through ESEA flexibility, although a SIG school that is in its third year of implementing a SIG intervention model in the 2012–2013 school year may be identified as a priority school, the school must be excluded from consideration when the SEA allocates SIG funds through a competition conducted during the 2012–2013 school year to support SIG implementation beginning in 2013–2014.

C-43c. Does a school automatically exit priority status once it completes three years of SIG implementation?

No. In order to exit priority status, a school must meet an SEA’s exit criteria. These criteria are set forth in section 2.D.v of each SEA’s approved ESEA flexibility request. An LEA with one or more priority schools that have completed three years of SIG implementation but have not met the exit criteria should review its SEA’s request and consult with the SEA directly to determine what additional action is required to help improve student achievement in those schools.

C-43d. Must an SEA request an additional waiver if, after being granted ESEA flexibility, it would like to replace its existing Tier I, Tier II, and Tier III lists under SIG with its list of priority schools?

Yes. The waiver that was granted to each SEA through ESEA flexibility allows an SEA to award SIG funds to a priority school that is not a Tier I or Tier II school — that is, in addition to the SEA’s Tier I and Tier II schools. But if an SEA would like the list of priority schools to actually replace its list of Tier I, Tier II, and Tier III schools, the SEA must request an additional waiver of the definition of LEAs with the “greatest need” in Section I.A.1 of the SIG final requirements (75 FR 66363, 66365 (Oct. 28, 2010)). This waiver is included in the FY 2012 SIG application; an SEA that wishes to request this waiver for the SIG competition to be conducted under that application may do so by checking the appropriate box in the application and complying with the requirements regarding providing notice and an opportunity to comment on the request.

C-48b. Must a subgroup’s performance against the graduation rate goal or targets inform incentives, interventions, and supports in other Title I schools?

Yes. ESEA flexibility requires SEAs to develop and implement systems of differentiated recognition, accountability, and support that look at student achievement in at least reading/language arts and mathematics for all students and all subgroups of students identified in ESEA section 1111(b)(2)(C)(v)(II); graduation rates for all students and all subgroups; and school performance and progress over time, including the performance and progress of all subgroups. Each SEA approved for ESEA flexibility must incorporate, to a significant degree, the adjusted cohort graduation rate into its State-developed system of differentiated recognition, accountability, and support, including the use of subgroup performance against the SEA’s graduation rate goal or targets to drive incentives, interventions, and supports in other Title I schools. SEAs and LEAs must ensure that no Title I school is permitted to miss graduation rate targets for a number of years for one or more subgroups without identification for and implementation of interventions or specific strategies designed to improve the graduation rates of those subgroups. The

implementation of such safeguards against chronic underperformance with respect to subgroup graduation rates in other Title I schools was a key condition for granting an SEA the flexibility to implement multiple-measure, compensatory accountability systems departing from the one-size-fits-all model otherwise required by current law.